Sexually Violent Persons Transitional Facility Siting Advisory Committee

FINAL REPORT

July 12, 2005

Submitted to

Secretary Helene Nelson, Department of Health and Family Services (DHFS) and
Secretary Matthew Frank, Department of Corrections (DOC)

Index

	Page #
Introduction and Charge of Committee	3
Committee Membership	6
Committee Meetings, Deliberations and Public Hearings	7
A. Beginning the Search for Possible Locations	7
B. The First Public Hearing – November 22, 2004	10
C. Compiling a List of Potential Properties	12
D. Public and Media Response to Press Conference	16
E. The Second Public Hearing – March 22, 2005	18
Committee Conclusion, Identified Barriers to Fulfilling Charge And Final Observations	23
A. Conclusion	23
B. Barriers to Completing Charge	24
1. Lack of Public Support	24
2. Lack of Political Support	26
3. Lack of Resources	28
4. 2003 Wisconsin Act 187	29
C. Final Observations	31
Appendices	35

Appendix A. Request For Proposal
Appendix B. Letters of Opposition
Appendix C. Letter to Secretary Nelson
Appendix D. List of Properties and Rankings
Appendix E. Letter from Mr. Tim Russell, Acting Director of the Economic and Community Development Division of Milwaukee County
Appendix F. Open Records Request
Appendix G. Letters from County Executive Scott Walker
Appendix H. Citizen Reports from the Cities of Mequon and Franklin
Appendix I. Letter from Attorney Frank Gumina
Appendix J. Committee Letter to Political Leaders Requesting Assistance
Appendix K. Letter from Supervisors Cesarz and Rice
Appendix L. Letter from County Executive Scott Walker
Appendix M. Letter from Mayor Thomas Taylor of Franklin
Appendix N. Letter from Secretary Helene Nelson, DHFS
Appendix O. Letter from Milwaukee Common Council President Willie L. Hines, Jr.
Appendix P. Letter from Mayor John R. Hohenfeldt of Cudahy
Appendix Q. Individual Committee Member Letter

Introduction and Charge of Committee

The Wisconsin state legislature enacted 2003 Wisconsin Act 187 on April 7, 2004 with the express intent to renumber Chapter 980 (Sexually Violent Person Commitments law) and to create definitions of a sexually violent person and criteria for supervised release of persons defined under the chapter. In addition, the act created a committee "to make recommendations regarding the location of a facility for the treatment of sexual predators" in Milwaukee county. Specifically, this committee was to provide the Department of Health and Family Services and the Department of Corrections "at least 3 specific locations that the committee determines are appropriate for the placement of…(a) facility" no later than December 31, 2004.

The committee formally met for the first time on October 19, 2004 and began work consistent with the charge offered by 2003 Wisconsin Act 187. The committee met weekly and began the difficult task of sorting out salient issues and pursuing its charge. Given the complexity of the charge and the lateness with which the committee began its work, it was not possible to meet the deadline proposed by 2003 Wisconsin Act 187 of December 31, 2004. On letters dated December 4, 2004, the Chair of the committee informed Secretary Helene Nelson of the Department of Health and Family Services and Secretary Matthew Frank of the Department of Corrections that it was unlikely that the December 31, 2004 deadline would be met and that the committee would continue to work in earnest toward the completion of its charge.

In response to the letter from the Chair, the committee did receive a letter dated December 28, 2004 from Ms. Diane Welsh, Executive Assistant for Secretary Helene Nelson, Department of Health and Family Services "encouraging the committee to continue…work and to submit the committee report as soon as possible." In addition, the committee was encouraged to continue its works by the State Supreme Court. The State Supreme Court appointed Judge William Eich as Special Master on February 4, 2005 "to monitor the progress of the siting committee charged with the responsibility of assisting the state in determining the location for the facility enumerated in 2001 Wisconsin Act 16 & 9107 (1) (d) and to 'attend committee meetings and …conduct such research and investigation as he deems appropriate and [to] report back to this court on the progress and recommendations of the committee'."

Pursuant to its charge, the committee met every week beginning on October 19, 2004 through May 24, 2005 diligently addressing its mandate to locate a minimum of three locations for consideration by the state for the housing of sexually violent persons who are placed on supervised release. The committee held two public hearings, consistent with statutory requirements, to receive input from the community and other interested parties. In addition, the committee spent many hours, both during the deliberate processes of meetings and traveling throughout Milwaukee County, searching for locations that would meet the minimum criteria for the location of a facility to house sexually violent persons deemed appropriate for community supervision. Subsequent sections of this report will describe in detail the workings of the committee.

After 7 months of searching for three locations within Milwaukee County, the committee was not able to fulfill its mandate as directed in 2003 Wisconsin Act 187 and has no viable properties to offer to the state for consideration of a facility to house sexually violent persons whom are eligible for supervised release. The committee agonized over this seven month period, receiving much input from citizens, trying to find suitable locations consistent with its charge. There were a number of factors that forced the committee to suspend its search efforts, and those will be examined in more detail below, yet in the final analysis, we must conclude that continuing the search process would be as futile as Sisyphus rolling the proverbial rock up the hill. **It is the firm opinion of this committee that it is possible to find locations within Milwaukee County to house sexually violent offenders deemed appropriate for supervised release in the community, yet current barriers have made it impossible for the committee to fulfill its charge.**

In subsequent sections of this report, the workings of the committee will be described, as well as barriers that precluded the committee from fulfilling its legislatively mandated charge. The committee has chosen to elaborate on these barriers so future efforts can be directed toward possible problems and hurdles in securing locations to house sexually violent persons under supervised release in Milwaukee County and address them in forthright and deliberative manner. The committee, in addition, recognizes that the placement of sexually violent persons back into the community under supervised release is always going to be a difficult and contentious issue, yet the committee also recognizes that the community has to address this matter in a rational and purposive way such that

community awareness of the many complicated matters with the issue can be addressed directly. This report will also provide a final conclusion and appendices that represent citizen concerns, written statements by political leaders, and individual letters written by committee members collected by the committee. Supporting documentation and other relevant materials also will be given to DHFS and DOC for their storage.

Committee Membership

The committee was composed of 15 individuals who met the eligibility requirements of 2003 Wisconsin Act 187. This act clearly states the composition of the committee to be the following: the chairperson of the Milwaukee County board of supervisors or his or her designee, the chief of police of the city of Milwaukee or his or her designee, the county executive of Milwaukee county or his or her designee, the district attorney of Milwaukee county or his or her designee, the mayor of the city of Milwaukee or his or her designee, the sheriff of Milwaukee county or his or her designee, one representative of the Milwaukee County Law Enforcement Executives Association who is not from the city of Milwaukee, one representative of the Intergovernmental Cooperation Council who is not from the city of Milwaukee, three persons, other than elected officials, who are residents of Milwaukee county but two of whom may not be residents of the city of Milwaukee, to be appointed by the governor, and four persons, other than elected officials, who are residents of Milwaukee county, and are appointed by the speaker of the assembly, the majority leader of the senate, the minority leader of the assembly and the minority leader of the senate.

This 15 person committee was composed of the following individuals: Mr. Tom Bauer, Police Chief, the city of Oak Creek, representing the Milwaukee County Law Enforcement Executives Association, Ms. Sue Breier, representing the Mayor of Milwaukee, Ms. Tony Clark, Milwaukee County Supervisor, representing the Chair of the Milwaukee County Board, Captain Susan Edman, representing the Milwaukee Police Department, Ms. Vicki Hinds, Mr. Thomas Klein, Ms. Cindy Krahenbuhl, District Attorney E.Michael McCann (designee Ms. Audrey Skwierawski), Ms. Kit Murphy McNally, Ms. Carmen Pitre, Chief Dean Puschnig, West Allis Police Department, Mr. Paul Radomski, representing the County Executive, Mr. Brian Satula, representing the Intergovernmental Cooperation Council, Dean Stan Stojkovic, Helen Bader School of Social Welfare, University of Wisconsin-Milwaukee, and Deputy Inspector Esther Welch, Milwaukee County Sheriff's Department. The committee at its first meeting on October 19, 2004 elected Stan Stojkovic to be the chair.

Committee Meetings, Deliberations and Public Hearings

A. Beginning the Search for Possible Locations

The committee began its work defining the criteria for considering locations in Milwaukee County suitable for the placement of sexually violent persons under supervised release. At the first meeting of the committee, a report was presented by Judge Janine P. Geske regarding the activities of an earlier committee that attempted to place William

Morford in Milwaukee County. In addition, at the first two meetings the committee reviewed the 2003 Wisconsin Act 187 for guidance regarding selection criteria. These criteria are: community safety, proximity to sensitive locations, ability to make the facility secure, accessibility to treatment for the persons living in the facility, payments that may be made in lieu of property taxes, availability of tax incentives to a community to locate the facility within its jurisdiction, and proximity of the placement to all of the following: residences of persons upon whom a sex offender notification bulletin has been issued by law enforcement agencies, and facilities for children that the committee is aware, and any residential subdivision.

In addition to these statutorily defined criteria, the committee included the following criteria: the facility must be located at least 1,000 feet from any facility for children, located at least 1,000 feet from any other sensitive area (nursing homes, community based residential facilities, disabled centers, and community centers), *a special focus given to light industrial areas*, and the seller must be willing to sell or lease the property for the purposes that were intended by 2003 Wisconsin Act 187. Moreover, the Department of Health and Family Services recommended that the parcel be of adequate size to accommodate the equivalent of a single story 4-unit apartment building with parking for 3 to 4 vehicles, the site must be environmentally clean, the site must be appropriate for residence, the site must meet all applicable zoning requirements, and the location must be in an area maximizing community safety. The committee considered a property viable if it met these criteria, and it was feasible to build a facility if needed, and a private property

owner was willing to sell the property for the purposes intended by 2003 Wisconsin Act 187 and would be willing to go public.

With these criteria and considerations in hand, the committee began deliberating and searching for locations in Milwaukee County. With the assistance of the DHFS and DOC staff, the committee employed Geographic Information Systems (GIS) to produce a series of maps, which identified properties within Milwaukee County. These maps enabled the committee to divide the county into quadrants to highlight locations throughout the county. In addition, the department of corrections provided information on the locations of the over 1,000 sex offenders who were on active supervision within the county and their zip code location. These offenders, as well as those who were sex offenders, but no longer were being supervised, total over 1,600 persons within Milwaukee County. Moreover, the committee received from the Milwaukee Police Department Uniform Crime data for the city of Milwaukee for its deliberations.

The committee sought further assistance from the DHFS through a Request for Proposal solicitation that went out dated November 3, 2004 seeking realtor services in Milwaukee County to find suitable locations consistent with the committee's criteria (see appendix A for copy of solicitation). This solicitation did not result in the type of response that the committee had hoped for in its request. In addition, DHFS made personal telephone contacts with local real estate agents, requesting assistance in searching for viable locations. Out of 44 realtors contacted in the Milwaukee County area, only 1 responded and agreed to assist the committee. This realtor did provide a property his company was

interested in leasing to the state for the purposes expressed in 2003 Wisconsin Act 187, and it did become one of the final six properties that the committee decided to forward for public review and consideration at its second public hearing.

With very little assistance from the realtor community, the committee decided that each member would "drive the county" searching for properties. Splitting up the county into quadrants and using real estate websites and commercial real estate listings, committee members attempted to find locations that would be suitable for the placement of a facility consistent with the committee's criteria. More details on the search process of the committee are provided in a subsequent section of the report. The committee decided that the first public hearing could be helpful in aiding the committee in finding locations within Milwaukee County.

B. The First Public Hearing – November 22, 2004

The committee recognized in its mandate a necessity to hold at least two public hearings to receive input on possible locations to house sexually violent offenders on supervised release. To that end, the first public hearing was held on November 22, 2004. Only two citizens attended and spoke at the hearing. Their comments were generally supportive of the committee's work and encouraged the committee to pursue locations within the county.

Three public officials spoke at the public hearing. The first was Sheriff David Clark and the second was Mayor Tom Barrett, both of whom spoke vigorously in opposition to the location of any site within the county or city of Milwaukee. The Sheriff stated, "I will not be part of any agreement that places a violent predator or a facility to house them in any neighborhood where the residents themselves do not agree to have them." This was read from a written statement that was then distributed to media outlets throughout Milwaukee. The Mayor stated "I think we have to separate them as much as possible…They have to be isolated. I am more concerned about the innocent kids and women of the community than these people." The committee received these statements with surprise and disappointment as both Sheriff Clark and Mayor Barrett had representatives on the committee, consistent with statutory requirements, to work toward the selection of possible locations within Milwaukee County. Moreover, the representatives for both public officials had worked diligently along with other members of the committee to search for addresses and deliberate upon the final list. The comments by the Sheriff and Mayor represented a view that was to be voiced by other political leader as the committee continued its work (See appendix B for letters from political leaders expressing opposition to the location of any site in Milwaukee County to house sexually violent offenders under supervised release).

The third public official to speak was Milwaukee County District Attorney E. Michael McCann who spoke of the common good and community protection achieved when the most serious sex offenders in Wisconsin are committed under Chapter 980, rather than being released into the community after serving their prison terms. Although his office had opposed the supervised release in each Milwaukee County case, the District Attorney

expressed concern that if the committee did not succeed in finding a place for the individuals ordered released by the courts, then the entire statute could be at risk of being declared unconstitutional. That in turn could result in hundreds of the worst sex offenders in Wisconsin being released back into the community without any treatment or supervision.

C. Compiling a List of Potential Properties

The hearing did not result in any constructive recommendations for placement addresses or locations. Given that the committee could not seriously fulfill its charge to submit a report by December 31, 2004, the committee did send a letter (dated December 4, 2004---see appendix C) to Secretaries Helene Nelson (DHFS) and Secretary Matthew Frank (DOC) stating that it was unlikely it was going to fulfill its charge and come up with a minimum of three locations for the housing of sexually violent offenders under supervised release. As noted earlier in this report, Secretary Nelson did respond and encouraged the committee to continue its work and attempt to provide a report as soon as possible.

The committee did continue to work toward identifying properties within Milwaukee County and worked through December, 2004 finalizing a list of potential locations with little or no assistance from the realtor community, no support from political leaders, and limited information from the public. Nevertheless, the committee's time-consuming and thorough search of each quadrant in the county yielded potential addresses. Each "team" assigned to a quadrant of the county forwarded their top addresses, creating a

list of twenty potential locations within the county for further consideration. The list of twenty properties is provided in the appendix section of this report. Once the committee felt comfortable (given the initial information) regarding these properties, the committee received detailed property reports from DHFS staff regarding the viability of the properties given the criteria of the committee. The committee rank ordered the properties based on the criteria and individual assessments by committee members. A list of the twenty addresses and a ranking sheet of the twenty properties are in appendix D of this report as well. Additionally, the chair was in constant contact with property owners and local governments regarding properties.

Of the 20 properties, 17 were in the city of Milwaukee, and all but four properties were owned by private property owners. The committee understood from knowledge of past placement attempts the importance of keeping the properties "viable." To this end, the chair was instructed to contact each of the property owners and confer with them about their continued interest in selling their properties given that pressure was likely to come from others for them not to sell to the state for the purposes outlined in 2003 Wisconsin Act 187. A motion was passed amending the definition of "viable" to include only those private properties whose owners voluntarily agreed to submit their property for consideration. The reason for this motion was the certain knowledge that any private property owner would be subject to intense publicity and public pressures, including negative responses from media, neighbors, and politicians. The committee did not wish to place any private property owner in this position without their full understanding of the implications. In addition, the committee adopted an amendment to its criteria at its January

25, 2005 meeting stating that governmental bodies could not choose to opt out and decide not to sell their properties to the state for the purposes outlined in 2003 Wisconsin Act 187. The view was that this right was only reserved for private property owners who could not withstand the potential fall-out and public pressure once their properties were made public.

Conversations with property owners over the next two months began with the hope of solidifying their interest in continuing to have their properties considered by the committee. These discussions remained confidential and were not going to be released to the public until property owners and committee members were satisfied to move forward to the second public hearing. The chair, along with District Attorney McCann's committee designee Skwierawski, took on the responsibility to work with property owners to discuss issues and answer any questions they might have about the committee and its charge and how the committee was to proceed. Some property owners could not be found or did not return phone calls from the chair. Additionally, no one representing governmental properties responded initially to the Chair's queries.

One government owned property was located in the city of Franklin, Wisconsin and city planners told the chair that "we don't know who owns the property, call the Mayor." For two properties, presumably owned by the city of Milwaukee, actual ownership could never be determined. The two county-owned lands were "open for surplus," according to Mr. Tim Russell, Acting Director of the Economic and Community Development Division of Milwaukee County, but the decision on their sale was left up to the County Executive and the County Board, and "The Division is not in the position of being able [to] (sic)

either agree to their availability nor deny that availability" (Letter dated February 23, 2005--see appendix E). Press agencies and law firms sought through open records requests the list of property owners being considered by the committee (see appendix F for a copy of one such request).

As the committee moved forward, it became apparent that maintaining the original list of twenty properties would be impossible. In fact, through committee deliberations and conversations with property owners, the committee had winnowed its list to 12 remaining properties. Of the original 20 properties, one was eliminated by the committee as unsuitable after the initial property report was reviewed by the committee, one property owner could not be contacted and thus was eliminated from further consideration, one property owner sought compensation for an additional 10 properties before he would consider selling the one property interested in by the committee, one property owner was a trucking firm and believed the property would be bought by another trucking company, one owner was out of state and could not be contacted, one property was going to be used by the current business to expand its parking lot, one owner was seeking an asking price close to four times the budgeted amount for the project and thus unsuitable as a location, and one location was near veterans hospital and not determined to be viable. Of the remaining 12 properties, two were owned by the city of Milwaukee, two by the county of Milwaukee, and the remaining 8 by private property owners.

Deliberations by the committee and conversations with private property owners further decreased the list. Finally, it was determined that 6 properties were still considered

appropriate places for further consideration. Committee members split up into teams and visited these properties several times before returning and voting to keep all 6 under consideration. Once the committee agreed on these 6 locations, a time and date was chosen for the second public hearing. To announce the 6 locations, the committee held a press conference on March 8, 2005 to inform the public about the processes employed by the committee in determining the six locations and to encourage attendance at the second public hearing.

D. Public and Media Response to Press Conference

Prior to the second public hearing, individual committee members and the chair received a number of letters, e-mails, and phone calls expressing disapproval with the six locations. In particular, the Chair received two letters (dated March 9, 2005 and March 22, 2005---see appendix G) from County Executive Scott Walker expressing his strong disapproval of county land being considered for the placement of sexually violent offenders, and that "In no other county in Wisconsin has the state attempted to put the burden of placement on county government," and that ultimately it was the state's responsibility to place these offenders, not the county. Similar views were offered in writing and verbally by residents of Franklin and Mequon and their political leaders. These are documented and located in appendix H of this report.

Additionally, media portrayals of the potential locations and the committee's work largely ignored the messages clearly delivered by the chair: that Chapter 980 served the

public good by protecting Wisconsin citizens; that the public would not be well-served if the law was found unconstitutional by the courts as a result of failure to find a suitable location; that supervision of the released individual was strict and thorough; and that in each release case doctors and ultimately judges had determined that these individuals had a right to be released under careful supervision. The chair also stated numerous times and in several different forums that the committee sought and cared about public input regarding potential locations. Most radio, TV and print media coverage focused on the understandable fear expressed by community members faced with a potential location in their neighborhood, but did virtually nothing to communicate the messages of the chair as expressed above. In one instance, the chair's comment that public outcry alone would not be enough to remove a site from the list was reported as the chair indicating that public input did not matter, despite direct statements to the contrary by the chair in the same statement.

The committee chair received 198 calls and e-mails from angry citizens blaming and accusing the committee of everything from incompetence to political corruption. Some callers suggested that the committee, and particularly the chair, was a political "hack" for the governor, even though the chair had not spoken to the governor once during the deliberative process.

Public pressure was not just reserved for the committee. Of the six remaining properties, private citizens owned four, and the pressure placed upon these owners and the tactics used by both elected officials and citizens to get them to retract their properties were

overwhelming and offensive in some cases. In one case, a city alderman threatened an owner (a convenience store chain) that the city would do no more business with the chain if they agreed to sell their property to the state, and even boasted about it in the local newspaper. The chair received a letter from a local attorney requesting a public retraction from him regarding some statements made concerning how public officials were addressing the housing of sexually violent persons (see appendix I). In addition, in this same letter, the chair was chided for alleged harsh treatment of the County Executive and suggested that he be treated with more "respect" by the chair of the committee.

E. The Second Public Hearing ---March 22, 2005

It was within this heated context that the committee held its second public hearing on March 22, 2005 at the State Fair grounds in Milwaukee County. By the time the second public hearing was held, the committee only had government properties to consider as possible locations, and even those locations were tenuous given that the County Executive had unequivocally stated that county land would not be considered for the purposes under 2003 Wisconsin Act 187 (again, see the letters from County Executive Walker in appendix G). Given this turn of events, the committee considered canceling the hearing, but it was decided that the importance of receiving public input outweighed the short list of remaining addresses, and in addition, the hearing provided the potential for receiving constructive suggestions for new locations.

The second public hearing was attended by over 1,100 people (an estimate) and was considered the largest public hearing held in the history of Milwaukee County. Ninety-two people registered to speak, each being given two minutes to present their views. Before the testimony began, the Chair laid down some ground rules and suggested that while the committee was very interested in hearing views regarding the six proposed sites, the committee also wanted to hear from the public regarding other potential sites for committee deliberation. Over the course of the testimony, most of which was negative and condemning of the chair and the committee (sometimes including personal attacks singling out members of the committee), not much constructive feedback and assistance was received. Virtually every speaker made histrionic and emotional appeals. Only three speakers talked about the importance of the committee's work to the community and encouraged support and offered other potential locations. Additionally, many political leaders stood up to express their views, and some even suggested further assistance to the committee to fulfill its charge (statements from Senators Alberta Darling, Mary Lazich, and Lena Taylor and state representative Jeff Stone). These statements were made in the context that to date, the committee had "gotten it wrong" and needed assistance to do the job in the right way. These statements were taken very seriously by the committee, something to be discussed later in the report. The committee also provided a comment sheet for speakers to provide written statements. These comment sheets yielded no new potential sites for the committee to review.

Subsequent to the second public hearing, the committee decided to continue to deliberate and consider its options. Particularly discouraging was the lack of support by

political officials (except, notably, the District Attorney), and the often times contradictory behaviors of elected leaders, many of whom were initial proponents of the 980 legislation and 2003 Wisconsin Public Act 187, but now walked away from the legislation and the committee. Many who criticized the committee had representatives on the committee who actively pursued the fulfillment of its charge. It was clear that for the committee to fulfill its charge, it would have to receive greater support from elected officials. Even if additional addresses were to be found, without the support of community and political leaders the entire process, complete with intense public pressures on property owners, would recur with similar results.

Recognizing the futility of engaging in such a process again, and in consideration of some of the salient issues learned by the committee in the second public hearing, the committee on April 5, 2005 voted that further consideration should not be given to the two remaining county properties, and that for the committee to continue its work, it would require additional staff resources and above all, political support. The committee passed a motion to instruct the chair to create a letter (see appendix J) to be sent to all political leaders in Milwaukee County requesting a pledge of such support. The letter requested a simple pledge of support, but also asked that anyone capable of providing additional resources do so, in order to allow the committee to fulfill its charge of finding a minimum of three locations to house sexually violent persons under supervised release. This letter, dated April 15, 2005, then requested that elected officials work with the committee to educate constituencies about the negative potential outcome if the 980 statute was deemed

unconstitutional in implementation and the unsafe environment that could result for all members of the Wisconsin community.

It should be noted that at this point there were discussions on the committee about discontinuing our work due to what were viewed as insurmountable barriers to completing our tasks. The committee ultimately concluded, however, that it could not ignore the very public pledges of assistance made by public officials at the second public hearing. It was thought that if, indeed, such assistance was forthcoming then we could not in good conscience cease our efforts, given our perception of the very serious public safety issues associated with the committee's charge.

The chair was therefore instructed by the committee to give elected officials 30 days to respond to the letter. Given the acknowledgement that the issue touched citizens and was important to the County on many levels, the letter was sent to 128 public officials, including municipal, city, county and state officials. The committee met on May 10, 2005 to see what responses had been received.

Unfortunately, the chair reported receipt of very few responses. County Supervisors Cesarz and Rice informed the committee via a letter dated May 11, 2005 that the county board had voted 14-5 to seek changes in the extant 980 statute to allow for the placement of sexually violent offenders in other counties in the state (see appendix K). This letter was followed up by a letter dated May 17, 2005 from County Executive Walker who supported the county board's resolution and reaffirmed his early position that no county lands would

be considered for the purposes of housing sexually violent offenders supervised under the 980 statute within Milwaukee County (see appendix L). Another letter was also received from Mayor Thomas Taylor, the city of Franklin, Wisconsin stating that the committee has not been "empowered by the Wisconsin State Legislature to engage in policy-making initiatives," and hence our request for additional resources and support were not within our jurisdictional authority, and thus he would not recommend any action on the part of the common council of the city of Franklin to support the committee (see appendix M).

The chair did receive three letters pledging support, one from Helene Nelson, secretary of the Department of Health and Family Services who did offer to the "committee…. the necessary support to meet its charge" in a letter dated May 9, 2005 (see appendix N). The second letter was from City of Milwaukee Common Council President Willie L. Hines Jr. on May 17, 2005 supporting the work of the committee and indicating that he would work with the committee to educate his constituents about the importance of the 980 law, but that he was "unable to assist you with your first two requests regarding additional resources and staffing for the committee (appendix O)." The final letter was from Mayor John R. Hohenfeldt of Cudahy, Wisconsin expressing that one of their alderpersons would be interested in being a "liaison between the Committee and the City of Cudahy (appendix P)."

The committee received no letters of support from the public officials who had spoken at the second public hearing on March 22, 2005. Senators Darling, Lazich, and Taylor and State Representative Stone all spoke about assisting the committee to fulfill its

charge at the second public hearing, but the committee received no word from them when solicited via the April 15, 2005 letter. The lack of political leadership and support was a recurring theme during the committee's seven months of work, and it will be noted further in the final section of this report as a barrier to fulfilling the charge given to the committee.

Committee Conclusion, Identified Barriers to Fulfilling Charge and Final Observations

A. Conclusion

The fundamental conclusion of this report is that the committee is not able to fulfill its mandate as expressed in 2003 Wisconsin Act 187 to offer "at least 3 specific locations that the committee determines are appropriate for the placement of …(a) facility" to house sexually violent offenders under supervision within Milwaukee county.

The committee's efforts over the past seven months have been significant, but at the time of this writing, there is no reason to believe that further committee work will yield any locations for further consideration. As a committee, we anguished over the fact that we could not meet our charge, yet we also understood the difficult charge that we were given. As stated in the beginning of this report, we do believe that locations to house sexually violent offenders under supervision within Milwaukee County can be found; however, unless an attempt is made to address the barriers faced by the committee, it is not likely that

locations to house sexually violent offenders placed on supervision will ever be found within Milwaukee county.

B. Barriers to Completing Charge

The committee identified the following barriers to fulfilling its charge as presented in 2003 Wisconsin 187: (1) lack of public support (2) lack of political support, (3) lack of resources, (4) and the vagueness of 2003 Wisconsin Act 187.

1. Lack of Public Support

It is the impression of the committee that the community at large, with few exceptions, does not support the portion of the law which allows for the supervised release of Chapter 980 offenders, at least insofar as that section allows placement of these individuals in Milwaukee County.

The committee perceives this as a barrier to completing its charge because members of the Milwaukee County community are most familiar with properties within the county, and most properties in Milwaukee County are owned by private citizens as opposed to governmental entities. Therefore, the committee believed that members of the community would be in the best position to come forward with potential locations.

When the committee actively sought community input and suggestions for placement locations using an initial press release, press conference and then the first public hearing, however, fewer than five members of the public responded. When the committee turned to the members of the community who are paid for locating properties for sale using an RFP and direct contacts with real estate agents and organizations, only one single real estate agent responded with a potential location.

The public reaction after the potential addresses were released was not supportive. Members of the community reacted with fear and anger. The committee cared very much about this reaction, and recognizes the reason for the fear and anger – after all, the people eligible for supervised release are by definition some of the worst sex offenders with some of the highest risk of recidivism in the state. It is also true, however, that Chapter 980 has been very successful in protecting the public, and has certainly kept many citizens from becoming future victims. And the supervised release of a very small percentage of the Chapter 980 offenders in other parts of the State has been a success, with no new sexually violent crimes convictions by those being monitored.

The chair attempted through media portrayals, interviews, a news conference, and public hearings to relay the relevance and importance of the 980 statute to community safety. The chair described Chapter 980 as a civil commitment procedure, not a criminal matter, a process predicated on treatment, not punishment, and the goal of the process as a transition from secure civil confinement to the community and finally to independent living. Despite these efforts there was very little acceptance that the individuals eligible for

supervised release had worked hard for many years in treatment programs in order to earn the recommendation of qualified doctors that they be allowed to transition into the community. There was little or no acknowledgment that if nothing was done to find possible locations to house sexually violent offenders on supervised release, there was a possibility that the county could be ordered to build a facility by a court. Worse, there was little recognition that without a successful placement location, the statute could be declared unconstitutional thereby releasing all of the 980 patients into Wisconsin communities with little or no supervision and no intensive treatment.

The committee did not have a budget to mount a true campaign to disseminate this message, nor was communication of this message an enumerated goal (according to the statute) for the committee. In reality, however, lack of ability to focus the community discourse on the above issues was a serious barrier to locating viable properties.

2. Lack of Political Support

The public reaction was communicated in no uncertain terms to the politicians representing the Milwaukee County citizenry. Their reaction at best was inaction and denial that the county and its citizens through their elected officials had to address how sexually violent offenders were going to be supervised in the county. At worst, the reaction of public officials included attacks on the committee and the exertion of heavy pressure on private property owners whose locations were under consideration by the committee.

Previous attempts to place a sexually violent person on supervised release in Milwaukee County have included a community-based committee initiative and a committee appointed by a Milwaukee County judge headed by an appointed Special Master. These committees proceeded in very different ways to attempt to find a location, with the community-based initiative holding open hearings and openly deliberating addresses or locations and the judicially created committee conducting its search for addresses in closed sessions, without even the attorneys for either party participating in the deliberations. Neither approach yielded a viable placement. The combination of public reaction fuelling public officials to make every effort to block each proposed placement was viewed by the committee as a scenario that was likely to recur.

It was therefore acknowledged early on in the committee's work that the support of public officials in Milwaukee County was absolutely necessary to its work. Logic dictated that because many elected officials in Milwaukee County sat on the committee itself, these officials would support the work of the committee and attempt to assist in disseminating the message that Chapter 980 serves the common good and should be preserved, even if that meant placement of a small percentage of individuals in the community. Of the dozens of mayors, alderman, county supervisors, and other elected officials who were asked to assist the committee, only one person came forward: District Attorney E. Michael McCann. His steady support and involvement with the committee was important in getting the message out to the various municipalities within the county that the 980 law was important to the long term safety of their communities. No other local political official came to the table to assist the committee in this way.

In addition, as outlined above, despite the fact that many public officials roundly criticized the committee and its work at the second public hearing, and despite the fact that these same officials publicly pledged their assistance to the committee at the hearing, when the committee actually requested this assistance it was not forthcoming. From the committee's point of view, this was both ironic and disappointing, and had a dramatic impact on our ability to complete our task.

3. Lack of Resources

The committee was supported by four staff members within DHFS: Mr. Ron Hermes, Ms. Deborah McCulloch, Ms. Barbara Vanden Bergh-Stevenson, and Mr. Steve Watters. These persons did an outstanding job in assisting the committee. The sheer volume of e-mails, letters, phone calls, and other assorted materials received from the citizenry alone required a major resource commitment. The chair handled most of these requests because the DHFS team had to conduct the background investigations of the properties as well as providing all other administrative support to the committee. If further consideration is to be given to securing locations within Milwaukee County to house sexually violent persons under supervised release, then many more resources will be needed to make such an effort successful.

These resources cannot be limited to those provided administratively by a state agency. The committee, for example, required assistance from realtors and other city,

county, and state resources to find suitable locations. As indicated in our letter dated April 15, 2005 to local political leaders, we needed more resources to adequately fulfill our mandate, yet no one came forward with any support for additional resources, except Secretary Nelson from DHFS who already had four staff persons supporting the committee as noted above.

4. 2003 Wisconsin Act 187

2003 Wisconsin Act 187, although providing many criteria for the committee to consider when looking for locations in Milwaukee County, included many general criteria without specific definitions. In addition, some of the criteria were internally contradictory, especially when the actual geography of Milwaukee County was closely scrutinized. Additionally, the Act did not include necessary mechanisms that would have been useful in completing the committee's task.

A key term, for example, that the committee struggled with in its deliberations is the word "proximity." This word is used in the statute in many places, specifically when considering locations and their distances from sensitive areas such as facilities for children and residential subdivisions. The statute does not define this term. Therefore, the committee adopted a rule of 1,000 feet as a minimum distance that a location must be from these sensitive areas, defining the word proximity in a very narrow way. This was done given the density of Milwaukee County's population and the large number of sensitive locations that are close to one another. Some critics of the committee viewed the 1,000 foot

rule as too short a distance from sensitive locations. Since the statute did not provide a specific number of feet, the definition of the term proximity did have multiple meanings for all parties involved (see appendix H for differences on this point by the communities of Mequon and Franklin).

Some of the criteria in the statute conflicted. The criterion "accessibility to treatment for the persons living in the facility," for example, conflicted with the criterion of "proximity to sensitive locations." In other words, the areas in the county with the lowest population density, including the lowest density of children were almost always areas in which public transportation was extremely limited or non-existent. Debate emerged as to how the committee should weigh both of these criteria simultaneously –should we favor locations with the fewest daycare centers, schools and other child-centered institutions or should we favor locations closest to probation agents or bus lines even if they are near more schools and daycare centers? Without clear direction in the statute, the committee was left to interpret these criteria in a way that seemed reasonable given the uniqueness and challenges found in Milwaukee County to find locations to house sexually violent persons under supervised release.

Finally, the Act included language that allowed the committee to "consider" tax incentives in order to encourage successful placement locations. This is a tool that would have been very helpful in finding a successful placement; however, the committee did not have the power to produce or promise such tax incentives and it was unclear exactly what was meant by including this phrase in the Act. Nor did the committee have the power to

move daycare or school facilities that would be too close to otherwise viable locations, and neither DHFS nor the committee had the power to condemn properties for the purpose of using them as placement locations.

C. Final Observations

It was clear to the committee that many political officials and citizens were woefully uninformed regarding the purposes and workings of the 980 law and the role this committee played in attempting to determine locations for the housing of sexually violent offenders under supervision. There should be a greater understanding among community members regarding the supervision process for sexually violent offenders. The supervision processes that are in place in the state of Wisconsin work very well and do significantly reduce the risk of re-offending by offenders. Mr. Steve Watters of DHFS gave this message to citizens at the second public hearing. This fact needs to presented and affirmed as much as possible to all community members by more than DHFS and DOC representatives.

Moreover, the general citizenry must be made aware of the implications if no locations are found in Milwaukee County to house sexually violent persons under supervision. In an erroneous fashion, many citizens and political leaders believe that if they do not know about the problem and the issues of managing sexually violent offenders in the community, the problem will disappear. The committee could not hold such a view, understanding that a possible implication of not securing a location in the county to house sexually violent offenders would be the striking down of the 980 law by a court. This

would have the tragic result of releasing hundreds of the highest risk sexually violent offenders into the community without supervision and without the intensive treatment Chapter 980 offers. This scenario virtually guarantees numerous additional victims of sexual assault, who could otherwise have been spared victimization if Chapter 980 remained in place.

In addition, any attempt to alter existing sentencing statues in the state to enhance criminal penalties for the commission of sexually violent offenses will, in the mind of the committee, be of little value to the community. The Supreme Court has already ruled that such enhancements are unconstitutional, and as such would be of no value to either the citizens of Wisconsin in promoting greater safety in their communities from sexually violent persons, or would such enhancements improve the treatment options available to these offenders. Pursuing such a strategy really does not address how communities across the state of Wisconsin will manage sexually violent offenders upon release from prison.

Any further legislative attempts at finding locations to house sexually violent offenders placed under supervised release should begin with a systematic plan for educating the public on the incidence and prevalence of sexual offending in society, the process of civil commitment procedures under the 980 law and the differences between civil and criminal commitments, and the nature of supervision for those civilly committed under the 980 law. These efforts should come from the legislators themselves who promulgated this law, working in coordinated effort with the DHFS and the DOC. Any further legislative acts to solve the Milwaukee County placement problem should include

more specific definitions as well as direction as to tax incentives and/or resources available for purchasing surrounding properties in order to effectuate a placement.

Political involvement and support is necessary if locations to house sexually violent offenders are to be found. All 72 counties across the state of Wisconsin have to address the issue of managing and supervising sexually violent offenders. Each county has unique circumstances that make this issue difficult. Some counties across the state, however, supervise sexually violent offenders very well. The committee found that in Milwaukee County, given its size and dense population, trying to find locations to house sexually violent persons under supervision was enormously difficult given the statutorily defined criteria and other criteria used by the committee. It is likely that greater political involvement by local officials could have assisted the committee tremendously in fulfilling its charge. But as documented in this report, instead, the committee faced stiff opposition from political leaders, some of whom pandered to fear and irrational positions which justified a "NIMBY" (Not in My Back Yard) approach and further inflamed the citizenry. This fear and irrationality can only be overcome through a conscious political effort by both the state and counties working together to address this serious and emotionally-laden issue. Because sincere political support was not present, the committee's efforts were thwarted, twisted, and often times misrepresented by extreme positions, making its work much more difficult.

The committee firmly believes that we as a community are all safer and that individuals who are truly suffering from a mental disorder are receiving appropriate

treatment due to Chapter 980. Fully cognizant of the very serious constitutional rights and community safety issues at stake, the committee deeply regrets that we, as a group, could not overcome the above barriers in order to successfully complete our charge. It is our sincere hope that this report accurately documented the challenges presented by this daunting task in a way that will guide future legislative, judicial, and community attempts at finding placement locations for sexually violent persons on supervised release in Milwaukee County.

Appendices